

**THE ELMBRIDGE BOROUGH COUNCIL
(OFF-STREET PARKING PLACES)
ORDER 2014**

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Elmbridge Borough Council, in exercise of the powers under Sections 32, 35 and Schedule 9 of the Road Traffic Regulation Act 1984 (as amended) ("the 1984 Act"), the Traffic Management Act 2004 ("the 2004 Act") and of all other Regulations and Orders made in exercise of the powers conferred by the 2004 Act and all other enabling powers, with the consent of Surrey County Council given under Section 39(3) of the 1984 Act and after consulting with the Chief Officer of Police in accordance with Paragraph 20 of Schedule 9 of the 1984 Act, hereby makes the Elmbridge Borough Council (Off-Street Parking Places) Order 2014.

PART I – GENERAL

Commencement and Citation

1. This Order may be cited as the Elmbridge Borough Council (Off-Street Parking Places) Order 2014. On the day it is brought into force it revokes the Elmbridge Borough Council (Off-Street Parking Places) (Ashley Park Car Park) Order 2010 and the Elmbridge Borough Council (Off-Street Parking Places) Consolidation Order 2008.

Definitions

2. (i) In this Order, except where the context otherwise requires, the following expressions shall mean:–
"Cashless Parking", means a cashless prepayment made via a telephone, smartphone, computer or other method, allowing a vehicle to park for a period of time. When that time runs out the vehicle is required to leave the Parking Place;
"Civil Enforcement Officer" means a person as defined by the 2004 Act to supervise and enforce *inter alia* the provisions of this Order;
"Class of Vehicle" means the types of vehicle allowed to park in a Parking Place. These are passenger vehicles, goods vehicles and motorcycles (unless the provision in Article 10 applies).

“Charging Days and Hours” are the days and times that charges apply, these exclude Christmas Day, Boxing Day, Good Friday and Bank Holidays;

“Council” means the Council of the Borough of Elmbridge;

“Days and Hours of Operation” means the days and times that the Parking Order is in force, these are all days, all hours;

“Disabled Person’s Badge” has the same meaning as in the Chronically Sick and Disabled Persons Act 1970 as amended;

“Driver”, in relation to a vehicle left in a Parking Place, means the person driving the vehicle at the time it was parked in the Parking Place;

“Goods Vehicle” means a motor vehicle which is constructed or adapted solely for use for the carriage of goods or burden of any description the overall height of which does not exceed 2.44 metres and the unladen weight of which does not exceed 2540 kilogrammes;

“Hand Held Computer” a device used by a Civil Enforcement Officer for verifying the correct time of day, for recording evidence electronically and for issuing a Penalty Charge Notice;

“Maximum Height” is the restriction by means of a height restriction barrier at a Parking Place entrance / exit, physically preventing vehicles over this height from entering;

“Maximum Stay” means the longest period of time that a vehicle can park in a Parking Place, this is 24 hours (except where Article 8 applies);

“Motorcycle” refers to two wheeled mechanically propelled vehicles not having a sidecar or trailer attached;

“Owner” of a vehicle, means the person by whom the vehicle is kept. In determining who was the owner of the vehicle at any time it shall be presumed that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994 or the person who has the use of such vehicle in the course of his/her

employment and is entitled to use such vehicle as if he/she were the registered keeper;

“Parking” in relation to a vehicle means where that vehicle is stopped for any period, whether or not the Driver or another person is present in or at the vehicle;

“Parking Bay” means an area indicated by lines marked on the surface of a Parking Place, for parking a motor vehicle within. Where the type or Class of Vehicle is specified, this is indicated by markings on the surface of the Parking Place or on a sign adjacent to the Parking Bay or in the Parking Place;

“Parking Place” means an area of land provided by the Council under Section 32 of the 1984 Act for use as an off-street Parking Place as defined by s142(1) of the 1984 Act;

“Parking Ticket Machine” means an apparatus located in a Parking Place for accepting payments and issuing Pay and Display Tickets;

“Pass” means a voucher issued by the Council on such terms and conditions as it shall decide, permitting a Driver to leave a vehicle in a Parking Place without the purchase and display of a Pay and Display Ticket, Resident Car Park Permit, Season Ticket or Cashless payment. A Pass may include a Council Member Pass and a Council Staff Pass;

“Passenger Vehicle” means a motor vehicle (other than a Motorcycle) constructed or adapted solely for the carriage of not more than eight passengers (exclusive of the Driver), without a trailer attached;

“Pay and Display Ticket” means a ticket issued by a Parking Ticket Machine indicating the payment of the charge, the date on which the ticket is valid and the time that paid for parking runs out when the vehicle is required to leave the Parking Place;

“Penalty Charge” has the same meaning as in Section 92 of the 2004 Act; The penalty charge shall be set at Band 2 as set out in Section 1 of the

Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007;

“Penalty Charge Notice” means a notification of a Penalty Charge pursuant to the provisions of Section 78 of the 2004 Act and the Civil Enforcement of Parking Contraventions (England) General Regulations 2007;

“Refund Voucher” is a ticket displayed in a vehicle allowing the vehicle to park for a day or period of time without the need to purchase and display a pay and display ticket. Where the day and/or time are written by hand, this will be by using an ink ball-point pen. Failure to complete the information or amending the information invalidates the Voucher;

“Relevant Position” means

(a) in respect of a Disabled Person’s Badge,

- (i) the Badge is shown inside the windscreen on the dashboard or fascia of the vehicle, or
- (ii) where the vehicle is not fitted with a dashboard, fascia or windscreen, the Badge is shown in a conspicuous position on the vehicle,

and in each case so that the date of expiry, the name of the issuing authority and the serial number are clearly visible and able to be read easily from outside the vehicle, and

(b) in respect of Pass, Pay and Display Ticket, Season Ticket, or Refund Voucher,

- (i) the Pass, Pay and Display Ticket, Season Ticket, or Refund Voucher is shown inside the windscreen, or
- (ii) in the case of a vehicle not fitted with a dashboard, fascia front windscreen the Pass, Pay and Display Ticket, Season Ticket, or Refund Voucher is shown in a conspicuous position on the vehicle,

and in each case so that the front face and all of the information including any expiry time and date, any date of validity and any reference number is able to be read easily from outside the vehicle;

“Reserved”, in respect of a Parking Place, means not available for parking by the public, or otherwise reserved for a particular Class of Vehicle, or purpose, or a vehicle for which a specific scale of charge has been paid or maximum period of stay applies;

“Restricted Area”, in respect of a Parking Place means any area other than a Parking Bay and where parking is not permitted;

“Season Ticket” means a ticket purchased from the Council and issued subject to the Council’s terms and conditions, valid for the period specified on the ticket and in the Parking Place(s) specified on the ticket;

- (ii) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment.
- (iii) Any reference in this Order to a numbered Article or Schedule shall, unless the context otherwise requires, be construed as a reference to the Article or Schedule bearing that number in this Order.
- (iv) The Interpretation Act 1978 shall apply for the interpretation of this Order.

PART II – USE OF PARKING PLACES

Designation

- 3. A Parking Place may be used, subject to the provisions of this Order, for such Classes of Vehicle in such positions, on such days, during such hours, for such periods and on payment of such charges as are specified in relation thereto in Schedule 1.

Class and position of vehicle

- 4. Where in Schedule 1, a Parking Bay is described as reserved for parking by vehicles of a specified class or purpose, or vehicles parked in a specified location, no person shall permit a vehicle to park in that parking bay within the Parking Place
 - (i) unless it is of the specified class;
 - (ii) unless it is wholly within a marked Parking Bay; or
 - (iii) in a position other than that specified.

Maximum period of stay

5. Where in Schedule 1 a Parking Place is described as available on specified days, during specified hours or for a maximum period of stay, no person shall permit a vehicle to park in that Parking Place on any day, during such hours or for any period longer than those specified.

Maximum height

6. Where a Height Restriction Barrier is installed at the entrance or exit to a Parking Place, vehicles exceeding the maximum height are not permitted to enter and park.

Period of no return

7. Where in Schedule 1, a Parking Place is described as having a period within which a vehicle may not return, no person shall permit a vehicle to park in that Parking Place on any day, during such hours within which the vehicle is excluded from parking in the Parking Place.

Season Ticket

8. Nothing in Articles 5 and 7 shall preclude a vehicle displaying a valid Season Ticket in the Relevant Position from being parked without payment of the daily charge in the relevant Parking Place specified on the Season Ticket up to a maximum period of 14 consecutive days.

Disabled Persons' Parking Bays

9. A vehicle parking in Disabled Persons' Parking Bay is required to display a Disabled Person's Badge in the Relevant Position. The Driver or a passenger is required to be the person the Badge is issued to.

Motorcycle Parking

10. Motorcycles can park "free of charge" in a Parking Place. Where a Motorcycle Parking Bay is provided in a Parking Place, motorcycles may not park "free of charge" in any other part of that Parking Place, including in a Parking Bay provided for other allowed Classes of Vehicle.

Power to close or suspend parking places

11. Nothing in this Order shall prevent the Council from closing or suspending the use of whole or part of a Parking Place for any period.

Power to close or suspend parking places

12. Any person closing or suspending the use of the whole or part of a Parking Place in accordance with the provisions of Article 11 shall in advance or at the time place or erect signs, notices and/or barriers giving notice of the closure or suspension.
13. No person shall cause or permit a vehicle to be parked in a Parking Place contrary to signs, notices and/or barriers pursuant to Articles 11 and 12.

PART III – CHARGES FOR PARKING

Payment

14. The Driver of a vehicle using a Parking Place shall, upon parking the Vehicle in the Parking Place, make payment of a charge either by:
 - (i) purchasing a Pay and Display Ticket; or
 - (ii) making a Cashless Parking prepayment at the level of charge for the period required in accordance with the scale of charges specified in Schedule 1, or otherwise varied by an Order or a Notice of Variation.

Means of payment

15. The charge referred to in Article 14 shall be payable either by:
 - (i) the insertion of an appropriate coin, coins, banknotes or by means of a credit / debit card, making up the amount of the charge payable to the Parking Ticket Machine situated in that Parking Place, or by payment to a person nominated by the Council, or other approved method of payment.
 - (ii) a cashless prepayment made via a telephone, smartphone, computer or other method, allowing a vehicle to park for a period of time.

Display of ticket

16. The Driver of the vehicle shall;

- (i) display the Pay and Display Ticket issued on payment of the charge referred to in Article 14 (i) in the Relevant Position on the vehicle in respect of which it was issued, and;
- (ii) ensure that a Pay and Display Ticket is purchased and displayed to cover the entire period that the vehicle is parked in the Parking Place. A vehicle may not park by means of a Pay and Display Ticket purchased on payment made to extend the initial stay or for a subsequent stay beyond the time first purchased.

Validity of Pay and Display Tickets

- 17. A Pay and Display Ticket is not transferable from one vehicle to another.
- 18. A Pay and Display Ticket is valid only in the Parking Place in which it was issued. This is defined by the reference code and/or location of the Parking Ticket Machine in that Parking Place, printed on the Pay and Display Ticket.

Expiry of parking period

- 19. The parking period expires where:
 - (i) a Pay and Display Ticket is purchased and the time indicated on the Hand Held Computer is later than the expiry time and date indicated on the Pay and Display Ticket displayed on a vehicle; or
 - (ii) a Cashless Parking prepayment is made and the time indicated on the Hand Held Computer or other device is later than the expiry time and date of the electronic record of that transaction.
- 20. The vehicle shall be removed from the Parking Place by the end of the parking period.

No Ticket displayed

- 21. Where neither a Pay and Display Ticket or Pass is displayed on a vehicle in the Relevant Position and in accordance with the provisions of Article 16, nor can it be determined that a Cashless Parking prepayment has been made, it shall be deemed that the charge has not been paid,

22. If at the time when a vehicle is left in a Parking Place and on the nearest Parking Ticket Machine in that Parking Place there is a notice placed by any person duly authorised by the Council, indicating that the Parking Ticket Machine is out of order, or the Parking Ticket Machine displays "not in use" or a Pay and Display Ticket cannot be obtained from that Parking Ticket Machine for any reason, then a Pay and Display Ticket shall be obtained from another Parking Ticket Machine (where provided).
23. A vehicle may not be left in a Parking Place if neither a valid Pay and Display Ticket has been obtained and displayed, nor a Cashless Parking prepayment made.

Season Tickets

24. Season Tickets are available for use in the Parking Places as detailed in Schedule 1 subject to certain conditions;
 - (i) A person may apply to the Council for the issue of a Season Ticket in respect of a vehicle of an allowed Classes of Vehicle;
 - (ii) The Driver shall abide by the terms stipulated by the Council for the use of the Season Ticket including its published terms and conditions;
 - (iii) A Season Ticket is only valid in the Parking Place(s) in respect of which it is issued;
 - (iv) The Council may at any time require an applicant for a Season Ticket or a holder of such a Season Ticket to produce to an officer of the Council such evidence in respect of an application for a Season Ticket made to them as they may reasonably require to verify any particulars or information given to them or in respect of any Season Ticket issued by them as they may reasonably require to verify that the Season Ticket is valid;
 - (v) A Season Ticket remains the property of the Council and shall be surrendered on request. In such instances where a refund fee is appropriate this will be provided in accordance with the Council's policies, on surrender of the Season Ticket.

Display of Season Ticket

24. The Driver shall display the Season Ticket in the Relevant Position on the vehicle in respect of which it was issued at all times during which the vehicle is left in the Parking Place during the hours of operation.

Replacement Season Ticket

25. A damaged or lost Season Ticket is immediately invalid and can only be replaced by application to the Council.

Surrender of Season Ticket

26. A holder of a Season Ticket on surrendering the ticket shall be entitled to a pro rata by month refund of the unexpired period, less an administration charge.

Restriction on removal

27. Where a Pay and Display Ticket, Season Ticket, or Pass has been displayed on a vehicle in accordance with the provisions Article 16 or 24, no person other than the Driver of the vehicle shall remove the Pay and Display Ticket, Season Ticket, Resident Permit or Pass from the vehicle.

PART IV – EXEMPTIONS FROM DAILY CHARGES

28. No daily charge shall be payable in respect of;
- (i) a vehicle which displays in the Relevant Position a valid Disabled Person's Badge provided that the vehicle immediately before or after the act of parking has been used or is about to be used by the person(s) in respect of whom the Badge is issued;
 - (ii) a Motorcycle left in a Parking Bay specified for such vehicles (if any), subject to Article 10;
 - (iii) a vehicle left displaying in a Relevant Position a Season Ticket valid for that Parking Place;
 - (iv) a vehicle left displaying in a Relevant Position a Pass issued by the Council valid for that time and for that Parking Place.

PART V – CONTRAVENTIONS AND PENALTY CHARGES

Contravention

29. If a vehicle is left in a Parking Place in contravention of any Article of this Order a Penalty Charge shall be payable and/or the vehicle may be removed from that location or Parking Place.

PART VI – REMOVAL OF VEHICLES

Relocation/ removal of a vehicle

30. Where a Civil Enforcement Officer or other person authorised by the Council believes that a vehicle in a Parking Place is in contravention of any of the provisions of this Order, or is left in such a manner so as to cause danger or obstruction, or has been abandoned, they may effect relocation of the position of the vehicle, or its removal to a place of safe-keeping.

PART VII OTHER PROVISIONS

Stop engine and apply brakes

31. The Driver of a vehicle using a Parking Place shall stop the engine as soon as the Vehicle is in the parking space and shall not start the engine except when about to change the position of the vehicle in or to depart from the Parking Place;
32. The Driver of a vehicle using a Parking Place shall, except in the case of a Motorcycle, set or apply the braking system of the vehicle so that it prevents at least two of its wheels from revolving, or where a vehicle has three wheels or less, one of its wheels from revolving, when the vehicle is not in motion.

Vehicle Tax and Insurance

33. No person shall permit any vehicle to wait in a Parking Place:
- (i) unless the vehicle displays or holds a current licence issued in accordance with the provisions of the Vehicle Excise and Registration Act 1994;
 - (ii) unless there is in relation to the use of the vehicle by the Driver such a policy of insurance as complies with requirements of the Road Traffic Act 1988.

Use of a Parking Place

34. No person shall permit any vehicle, trailer, caravan or other item to park in a:
- (i) Parking Place unless it is a Class of Vehicle authorised to do so;
 - (ii) Parking Bay marked as available for a vehicle of a specific class or purpose, unless it is of that class, or has been parked for that purpose;
35. No person shall in a Parking Place;
- (i) without the express written permission of the Council, use a vehicle, in connection with the sale of any article, including the vehicle itself, or in connection with the selling or offering for hire of goods, skills or services;
 - (ii) sound the horn or other similar instrument except when the vehicle is in motion and another vehicle or a person poses a danger;
 - (iii) except with the permission of or at the direction of a Civil Enforcement Officer or a person authorised by the Council or a Police Constable in uniform, drive any vehicle in the Parking Place other than for the purposes of, parking the vehicle in the Parking Place in accordance with the provisions of this Order, departing from the Parking Place, or visiting any amenity in the Parking Place;
 - (iv) wantonly shout or otherwise make any noise to cause disturbance or annoyance of users of the Parking Place, local residents, or other occupiers of adjacent premises;
 - (v) act in a manner to cause nuisance or danger to any person;
 - (vi) use any part of the Parking Place or a vehicle in a Parking Place without the express written permission of the Council for;
 - (a) sleeping or camping purposes;
 - (b) cooking purposes;
 - (c) the purpose of washing, valeting, servicing or repairing any vehicle or part thereof, other than is reasonably necessary to enable that vehicle to depart from the Parking Place, or where such activities are authorised by the Council;
 - (vii) use that Parking Place solely as a means of passage between one road and another;
 - (viii) erect or cause to be erected, any tent, booth, stand, building or other structure unless authorised to do so by the Council;
 - (ix) light, or cause the lighting of, a fire;

- (x) abandon any vehicle, trailer, or anything forming part of a vehicle or trailer;
 - (xi) deposit or dispose of any waste, rubbish or litter, unless it is small items placed in a litter bin provided by the Council.
36. Where signs are erected, or surface markings laid, for the purposes of indicating the: entrance(s) to or exit(s) from a Parking Place; or specifying the direction in which vehicles are to proceed, a person shall not drive or cause any vehicle to be driven;
- (i) so that it enters the Parking Place otherwise than by an entrance, or leaves the Parking Place otherwise than by an exit;
 - (ii) in a direction other than that specified;
 - (iii) in a manner, or at a speed, so as to cause danger to any person in the Parking Place.

PART VIII – LIABILITIES / PENALTIES

37. The Council accepts no liability for the loss or damage to vehicles or other property left in any Parking Place to which this Order applies.
38. Any person who interferes with a Parking Ticket Machine or operates or attempts to operate it by the insertion of objects other than undamaged and unaltered coins of legal tender, shall be liable to prosecution.

Given under the Common Seal of Elmbridge Borough Council

this 3rd day of April 2014

THE COMMON SEAL OF
ELMBRIDGE BOROUGH COUNCIL
was hereunto affixed in the presence of



Head of Legal Services

